

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5308 of 2016

Dr. Yogendra Dhar Badgaiyan S/o Late Dr. S.D. Bagdaiyan, Aged About
58 Years R/o F 342, Rama Green City Sipat Road, Bilaspur
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary Health And Family Welfare & Medical Education Department, Mahanadi Bhawan, Mantralaya Raipur Chhattisgarh
2. Under Secretary, Government Of Chhattisgarh, Health Family Welfare & Medical Education Department, Mahanadi Bhawan, Mantralaya, Raipur Chhattisgarh
3. Director, Medical Education Government Of Chhattisgarh, Old Nurses Hostel, D.K.S. Parisar, Raipur Chhattisgarh
4. Dean, Chhattisgarh Institute Of Medical Science, Bilaspur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Arvind Shrivastava, Advocate
For State	:	Shri D.R. Minj, Dy. G.A. Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/11/2016

Heard.

1. Challenge to the transfer order is mainly on the ground that the petitioner is being transferred to a place where there is no vacant post of Professor, Community Medicine.
2. The State having joined the issue, was granted time to seek instructions, filed affidavit clearly stating the fact. Earlier when the reply was filed by the State, the petitioner came out with certain records of proceedings of Vidhan Sabha to state that the post which was available has been abolished. In that view of the matter, the State was earlier granted time to seek instructions and make clear statement. Now, the additional affidavit which has been filed on 19.10.2016, a clear averment has been made in para 10 with regard to the

availability of the post.

3. Learned State counsel, upon instructions, submits that there is a vacant post of Professor, Community Medicine against which the petitioner would be allowed to join and his terms and conditions of services shall not be adversely affected in term to pay, salary, seniority etc.

4. In view of this categoric stand and affidavit taken by the State Government, there is basis for no apprehension of the petitioner.

5. Learned counsel for the petitioner submits that, in fact, earlier the post was abolished, surrendered and now a fresh order is being passed which shows that the post has come into existence, much after passing of the transfer order.

6. Present is a transfer matter. Once, this Court finds that the transfer does not adversely affect terms and conditions of service of the petitioner and there is a post available to accommodate the petitioner at the transferred place, the discretionary jurisdiction under Article 226 of the Constitution of India would not come to the aid of the petitioner.

7. In view of the above, this petition is disposed off placing on record the statement made by the State counsel with regard to the availability of post of Professor, Community Medicine against which the petitioner would be allowed to join in implementation of the transfer order.

Sd/-
(Manindra Mohan Shrivastava)
Judge